

Before the  
Federal Communications Commission  
Washington, DC 20554

FCC MAIL SECTION  
AUG 22 10 31 AM '00

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Whitehall City School District	)	File No. SLD-145224
Whitehall, Ohio	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45✓
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

### ORDER

**Adopted: August 17, 2000**

**Released: August 18, 2000**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Letter of Appeal filed by Whitehall City School District (Whitehall City), Whitehall, Ohio, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator).<sup>1</sup> Whitehall City seeks review of SLD's refusal to consider Whitehall City's appeal to SLD on the grounds that it was untimely filed. For the reasons set forth below, we deny Whitehall City's appeal.

2. SLD issued a Funding Commitment Decision Letter on September 8, 1999, denying Whitehall City's request for discounted services under the schools and libraries universal service support mechanism.<sup>2</sup> Specifically, SLD denied Whitehall City's request for

<sup>1</sup> Letter from Joseph R. Schiska, Whitehall City School District, to Federal Communications Commission, filed April 17, 2000 (Letter of Appeal).

<sup>2</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Joseph R. Schiska, Whitehall City School District, dated September 8, 1999 (Funding Commitment Decision Letter). Whitehall City asserts that it did not receive the September 8, 1999 letter, and became aware of the funding decision only after having contacted SLD. A review of the record indicates that SLD did issue a Funding Commitment Decision Letter on September 8, 1999. Merely stating that a letter was not received at the address provided to SLD and to which prior correspondence had been successfully mailed is insufficient grounds for reconsideration. See *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) ("[I]f the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered... procedural havoc and abuse would result.").



discounts for internal connections and telecommunications services. On November 29, 1999, Whitehall City filed an appeal of SLD's decision to deny funding.<sup>3</sup> On December 9, 1999 and March 25, 2000, SLD issued two Administrator's Decisions on Appeal indicating that it would not consider Whitehall City's appeal because it was received more than 30 days after the Funding Commitment Decision Letter was issued.<sup>4</sup> Whitehall City subsequently filed the instant Letter of Appeal with the Commission.

3. Under section 54.720 of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision as to which review is sought.<sup>5</sup> Documents are considered to be filed with the Commission or SLD only upon receipt.<sup>6</sup> The 30-day deadline contained in section 54.720 of the Commission's rules applies to all requests for review filed by a party affected by a decision issued by the Administrator. Because Whitehall City failed to file an appeal of the September 8, 1999 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Whitehall City's appeal to SLD as untimely and deny the instant Letter of Appeal.

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Letter of Appeal filed by Whitehall City School District, Whitehall, Ohio on April 17, 2000, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Sharon L. Webber  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau

<sup>3</sup> Letter from Roger D. Wolfe, Whitehall City School District, to Schools and Libraries Division, Universal Service Administrative Company, filed November 29, 1999.

<sup>4</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Roger D. Wolfe, Whitehall City School District, dated December 9, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Roger D. Wolfe, Whitehall City School District, dated March 25, 2000 (Administrator's Decisions on Appeal). In the initial Administrator's Decision on Appeal, SLD indicated that Whitehall's appeal was not timely filed, but that SLD was seeking guidance from the Commission as to whether SLD had authority to waive the 30-day filing deadline. SLD later issued the subsequent Administrator's Decision on Appeal, stating that the Commission determined that SLD did not have authority to waive the 30-day deadline, and informing Whitehall that it could appeal to the Commission for relief.

<sup>5</sup> 47 C.F.R. § 54.720.

<sup>6</sup> 47 C.F.R. § 1.7.